



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: OMURA, Yoshiharu

SERIAL NO.: 10/038,278

ART UNIT: 3727

FILED: January 4, 2002

EXAMINER: Smalley, J. N.

TITLE: CAN HAVING A COVER WITH A STAY-ON TAB

PETITION FOR WITHDRAWAL OF A
HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.8(b)

STATEMENT OF FACTS

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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TECHNOLOGY CENTER R3700

In accordance with 37 C.F.R. § 1.8(b), the following is a showing of timely transmission of the responsive communication.

1. The present application was filed on January 4, 2002.
2. A non-Final Office Action was mailed on August 29, 2003, a response being due by December 1, 2003 (Monday, the first business day after a weekend deadline date).
3. Responsive to the Office Action, Applicant filed an Amendment "C" in order to respond to the rejections by the Examiner and to place the application into a condition for allowance. The Amendment "C" was mailed on December 1, 2003.
4. An acknowledgment post card, indicating receipt of Amendment "C" by the U.S. Patent and Trademark Office on December 3, 2003, is attached hereto as Exhibit A.
5. A Notice of Abandonment has not yet been received. The Examiner contacted the Applicant's attorney by phone on March 2, 2004, indicating that the statutory period

for response had expired without a response being received. Applicant's attorney notified the Examiner that a response had, in fact, been filed.

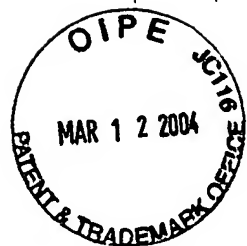
6. Applicant has discovered the abandonment through Applicant's own procedures in monitoring the progress of the application.
7. Applicant now files the present Petition to Withdraw the holding of abandonment because Applicant contends that the present application is not in fact abandoned.
8. The present Petition for Withdrawal is being submitted less than one month from the receipt of the Notice of Abandonment. The Notice of Abandonment has not yet been received.

Applicant petitions for withdrawal of the holding of abandonment because the application is not in fact abandoned. Applicant timely filed the responsive Amendment "C" on December 1, 2003, before the shortened statutory period expired on December 1, 2003, under 37 C.F.R. § 1.8.

Applicant acknowledges that the Amendment "C" was recorded as received by the U.S. Patent and Trademark Office on December 3, 2003. However, the Certificate of Mailing was signed on December 1, 2003. As such, the proper response was transmitted within the shortened statutory period. Alternatively, Applicant's attorney has Deposit Account 08-0879 which could have been charged for payment of any extension fees.

Applicant respectfully contends that the holding of abandonment be withdrawn. The U.S. Patent and Trademark Office has received the required response.

Applicant petitions for withdrawal of the holding of abandonment based upon the evidence of the timely filed response. Pursuant to 37 C.F.R. § 1.8(b), no government fee is included.



Date 3.8.04

Respectfully submitted,

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